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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JAMES L. JOHNSON, III,

11 Petitioner,

12 v.

13 JASON BENNETT,

14 Respondent.

CASE NO. C24-1200JLR

ORDER ADOPTING REPORT
AND RECOMMENDATION

15 **I. INTRODUCTION**

16 Before the court is United States Magistrate Judge David W. Christel's report and
17 recommendation, in which he recommends that the court dismiss *pro se* Petitioner James
18 L. Johnson, III's 28 U.S.C. § 2254 petition for writ of habeas corpus as untimely. (R&R
19 (Dkt. # 14); *see* Petition (Dkt. # 9).) Neither Mr. Johnson nor Respondent Jason Bennett,
20 Superintendent of the Stafford Creek Corrections Center, filed objections before the
21 November 29, 2024 deadline. (*See generally* Dkt.) Having carefully reviewed the report
22 and recommendation, the relevant portions of the record, and the governing law, the court

1 ADOPTS Magistrate Judge Christel’s report and recommendation and DISMISSES Mr.
2 Johnson’s habeas corpus petition with prejudice.

3 II. BACKGROUND

4 Mr. Johnson filed his proposed habeas petition and application to proceed *in forma*
5 *pauperis* (“IFP”) on July 31, 2024. (IFP Mot. (Dkt. # 1).) After granting Mr. Johnson’s
6 IFP application, Magistrate Judge Christel ordered service of Mr. Johnson’s petition and
7 directed Respondent to answer. (8/14/24 Order (Dkt. # 10).) Respondent filed his
8 response on September 12, 2024. (Resp. (Dkt. # 12).) Mr. Johnson did not file a reply.
9 (*See generally* Dkt.)

10 Magistrate Judge Christel issued the report and recommendation on November 15,
11 2024. (R&R.) He concludes that Mr. Johnson’s petition is time-barred, that Mr. Johnson
12 is not entitled to equitable tolling, and that the actual innocence exception to the statute of
13 limitations does not apply. (*See generally id.*) Magistrate Judge Christel therefore
14 recommends that the court dismiss Mr. Johnson’s petition with prejudice and deny a
15 certificate of appealability. (*See generally id.*)

16 III. ANALYSIS

17 A district court has jurisdiction to review a magistrate judge’s report and
18 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “A judge of the court
19 may accept, reject, or modify, in whole or in part, the findings or recommendations made
20 by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “The statute makes it clear that the
21 district judge must review the magistrate judge’s findings and recommendations de novo
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1 *if objection is made, but not otherwise.” United States v. Reyna-Tapia*, 328 F.3d 1114,
2 1121 (9th Cir. 2003) (en banc) (emphasis in original).

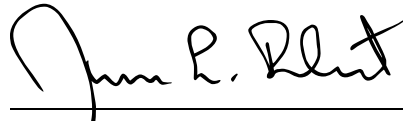
3 The court has thoroughly examined the record before it and finds Magistrate Judge
4 Christel’s reasoning persuasive in light of that record. The court has also independently
5 reviewed Mr. Johnson’s petition and agrees with the reasoning and conclusions set forth
6 in the report and recommendation. Accordingly, the court ADOPTS the report and
7 recommendation, DISMISSES Mr. Johnson’s habeas corpus petition, and DENIES a
8 certificate of appealability.

9 **IV. CONCLUSION**

10 For the foregoing reasons, the court ORDERS as follows:

- 11 (1) The court ADOPTS the report and recommendation (Dkt. # 14);
12 (2) Mr. Johnson’s habeas corpus petition is DISMISSED with prejudice;
13 (3) A certificate of appealability is DENIED for the reasons set forth in the
14 report and recommendation (R&R at 9-10); and
15 (4) The Clerk is DIRECTED to send copies of this order to Mr. Johnson,
16 counsel for Respondent, and to Magistrate Judge David W. Christel.

17 Dated this 6th day of December, 2024.

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21 JAMES L. ROBART
22 United States District Judge